

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A GAMBLING TREATMENT FUND TO BE USED
5 TO PROVIDE GRANTS TO QUALIFIED NONPROFIT AND PUBLIC ORGANIZATIONS PROVIDING
6 TREATMENT SERVICES TO INDIVIDUALS WHO HAVE PROBLEM GAMBLING BEHAVIOR; REPLACING THE
7 TERM "COMPULSIVE GAMBLER" WITH THE TERM "PROBLEM GAMBLER"; PROVIDING FOR AN
8 ALLOCATION OF A PORTION OF THE VIDEO GAMBLING MACHINE TAX AND NET LOTTERY PROCEEDS
9 TO THE FUND; DIRECTING THE DEPARTMENT OF JUSTICE TO ADOPT RULES GOVERNING GRANTS;
10 PROVIDING THAT THE GAMING ADVISORY COUNCIL MAY MAKE RECOMMENDATIONS CONCERNING
11 GRANTS; STATUTORILY APPROPRIATING THE GAMBLING TREATMENT FUND FOR GRANTS;
12 AMENDING SECTIONS 2-15-2021, 17-7-502, 23-5-110, 23-5-115, 23-5-610, AND 23-7-402, MCA; AND
13 PROVIDING AN EFFECTIVE DATE."

14

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16

17 NEW SECTION. **Section 1. Gambling treatment fund -- grants.** There is an account in the state
18 special revenue fund known as the gambling treatment fund. Money is deposited in the account as
19 provided in 23-5-610 and 23-7-402. The account is statutorily appropriated, as provided in 17-7-502,
20 to the department to be used for grants to qualified nonprofit and public organizations providing treatment
21 services to individuals who have problem gambling behavior.

22

23 **Section 2.** Section 2-15-2021, MCA, is amended to read:

24 **"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- biennial**
25 **report.** (1) There is a gaming advisory council.

26 (2) The gaming advisory council is allocated to the department for administrative purposes only
27 as prescribed in 2-15-121.

28 (3) The gaming advisory council consists of nine members. One member must be from the senate,
29 and one member must be from the house of representatives. The senate committee on committees and
30 the speaker of the house of representatives shall appoint the legislative members of the council. The seven

1 remaining members must be appointed by the department, with one representing the public at large, two
2 representing local governments, one being a Native American, and three representing the gaming industry.

3 (4) Each gaming advisory council member is appointed to a 3-year term of office. A member of
4 the council may be removed for good cause by the appointing body provided for in subsection (3).

5 (5) The gaming advisory council shall appoint a presiding officer from its members.

6 (6) Members of the gaming advisory council are entitled to travel, meals, and lodging expenses
7 as provided for in 2-18-501 through 2-18-503. A member who is not a full-time salaried officer or
8 employee of the state or of a political subdivision of the state is also entitled to be paid \$25 for each day
9 during which the member is actually and necessarily engaged in the performance of council duties.
10 Expenses of the council must be paid from licensing fees received by the department.

11 (7) The gaming advisory council shall, within its authorized budget, hold meetings and incur
12 expenses as it considers necessary to study all aspects of gambling in the state.

13 (8) (a) The gaming advisory council shall submit a biennial report to the department, at a time
14 designated by the department, with recommendations for amendments to the gambling statutes, the need
15 for additional or modified department rules, the clarification of existing rules, and other recommendations
16 on the operation of the department or any other gambling-related matter.

17 (b) The biennial report required under subsection (8)(a) must be affixed to the report on gambling
18 in the state that the department submits that year.

19 (c) The council may submit interim reports to the department as the council considers necessary.

20 (d) The council shall meet with the department upon request of the department.

21 (e) The department shall meet with the council upon request of the council.

22 (9) The department shall give each council member notice and a copy of each proposed change
23 in administrative rules relating to gambling. The notice and copy must be given at the time a notice of
24 proposed rules changes is filed with the secretary of state. The council shall review the proposal, may
25 comment on it, and may attend any hearing on the proposal. The department shall consider any comment
26 by any council member or by the council as a whole prior to adopting the proposed change.

27 (10) The council may review applications for grants under [section 1] and make recommendations
28 to the department concerning grant awards for treatment services to individuals who have problem
29 gambling behavior."

30

1 **Section 3.** Section 17-7-502, MCA, is amended to read:

2 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
3 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
4 without the need for a biennial legislative appropriation or budget amendment.

5 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
6 with both of the following provisions:

7 (a) The law containing the statutory authority must be listed in subsection (3).

8 (b) The law or portion of the law making a statutory appropriation must specifically state that a
9 statutory appropriation is made as provided in this section.

10 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901;
11 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702;
12 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404;
13 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319;
14 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107;
15 20-26-1503; 22-3-1004; 23-5-136; [section 1]; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631;
16 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;
17 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222;
18 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

19 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
20 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
21 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
22 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
23 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
24 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
25 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
26 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,
27 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of
28 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
29 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
30 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710

1 terminates June 30, 2005.)"

2

3 **Section 4.** Section 23-5-110, MCA, is amended to read:

4 **"23-5-110. Public policy of state concerning gambling.** (1) The legislature finds that for the
5 purpose of ensuring the proper gambling environment in this state it is necessary and desirable to adopt
6 a public policy regarding public gambling activities in Montana. The legislature therefore declares it is
7 necessary to:

8 (a) create and maintain a uniform regulatory climate that assures players, owners, tourists,
9 citizens, and others that the gambling industry in this state is fair and is not influenced by corrupt persons,
10 organizations, or practices;

11 (b) protect legal public gambling activities from unscrupulous players and vendors and detrimental
12 influences;

13 (c) protect the public from unscrupulous proprietors and operators of gambling establishments,
14 games, and devices;

15 (d) protect the state and local governments from those who would conduct illegal gambling
16 activities that deprive those governments of their tax ~~revenues~~ revenue;

17 (e) protect the health, safety, and welfare of all citizens of this state, including those who do not
18 gamble, by regulating gambling activities; and

19 (f) promote programs necessary to provide assistance to those who are adversely affected by
20 legalized gambling, including ~~compulsive~~ problem gamblers and their families.

21 (2) The legislature adopts the policy that an applicant for a license or permit or other department
22 approval under parts 1 through 8 of this chapter does not have a right to the issuance of a license or
23 permit or the granting of the approval sought. The issuance of a license or permit issued or other
24 department approval granted pursuant to the provisions of parts 1 through 8 of this chapter is a privilege
25 revocable only for good cause. A holder does not acquire a vested right in the license or permit issued or
26 other department approval granted. A license or permit issued under parts 1 through 8 of this chapter may
27 not be sold, assigned, leased, or transferred.

28 (3) Revenue to fund the expense of administration and control of gambling as regulated by parts
29 1 through 8 of this chapter must be derived solely from fees, taxes, and penalties on gambling activities,
30 except the gambling activities of the Montana state lottery and the parimutuel industry."

1

2 **Section 5.** Section 23-5-115, MCA, is amended to read:

3 **"23-5-115. Powers and duties of department -- licensing.** (1) The department shall administer the
4 provisions of parts 1 through 8 of this chapter.

5 (2) The department shall adopt rules to administer and implement parts 1 through 8 of this
6 chapter. The department shall adopt rules providing the procedure for applications, qualification for, and
7 criteria for awarding grants from the gambling treatment fund provided for in [section 1]. The rules must
8 include a matching fund requirement for an entity receiving a grant. A grant may be made to an entity for
9 a statewide contract for problem gambling treatment services. The procedure for awarding grants must
10 take into consideration the recommendations of the gaming advisory council as provided in 2-15-2021.

11 (3) The department shall provide licensing procedures, prescribe necessary application forms,
12 and grant or deny license applications.

13 (4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure
14 for inspection of records, provide a method for collection of taxes, and establish penalties for the
15 delinquent reporting and payment of required taxes.

16 (5) The department may suspend, revoke, deny, or place a condition on a license issued under
17 parts 1 through 8 of this chapter.

18 (6) The department may not make public or otherwise disclose confidential criminal justice
19 information, as defined in 44-5-103, information obtained in the tax reporting processes, personal
20 information protected by an individual privacy interest, or trade secrets, as defined in 30-14-402,
21 specifically identified and for which there are reasonable grounds of privilege asserted by the party claiming
22 the privilege.

23 (7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under
24 parts 1 through 8 of this chapter."

25

26 **Section 6.** Section 23-5-610, MCA, is amended to read:

27 **"23-5-610. (Temporary) Video gambling machine gross income tax -- records -- distribution --**
28 **quarterly statement and payment.** (1) A licensed machine owner shall pay to the department a video
29 gambling machine tax of 15% of the gross income from each video gambling machine issued a permit
30 under this part. A licensed machine owner may deduct from the gross income amounts equal to amounts

1 stolen from machines if the amounts stolen are not repaid by insurance or under a court order, if a law
2 enforcement agency investigated the theft, and if the theft is the result of either unauthorized entry and
3 physical removal of the money from the machines or of machine tampering and the amounts stolen are
4 documented.

5 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for
6 which a permit has been issued under this part if:

7 (i) the permit was active for the video gambling machine on December 31, 2000;

8 (ii) the department determines that the video gambling machine is incapable, in the form in which
9 it was approved by the department, of communicating with the automated accounting and reporting
10 system authorized by 23-5-637; and

11 (iii) the licensed machine owner participates in the automated accounting and reporting system and
12 incurs actual hardware or software costs prior to December 31, 2003, for conversion of the video
13 gambling machine to make it compatible with the automated system.

14 (b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling
15 machine or the actual hardware and software cost necessary for conversion of the video gambling machine
16 to the automated accounting and reporting system, whichever is less.

17 (3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for
18 the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is
19 connected to the automated accounting and reporting system authorized by 23-5-637.

20 (4) A licensed machine owner shall keep a record of the gross income from each video gambling
21 machine issued a permit under this part in the form the department requires. The records must at all times
22 during the business hours of the licensee be subject to inspection by the department.

23 (5) (a) For each video gambling machine issued a permit under this part but not connected to the
24 department's automated accounting and reporting system, a licensed machine owner shall, within 15 days
25 after the end of each quarter and in the manner prescribed by the department, complete and deliver to the
26 department a statement showing the total gross income, together with the total amount due the state as
27 video gambling machine gross income tax for the preceding quarter. The statement must contain other
28 relevant information that the department requires.

29 (b) For each video gambling machine issued a permit under this part that is connected to the
30 department's automated accounting and reporting system, the department shall, within 5 working days

1 after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to
2 the licensed operator, if different from the licensed machine owner, on whose premises the machine is
3 placed) a statement showing the total gross income from the video gambling machine, together with the
4 total amount due the state as video gambling machine gross income tax for the preceding quarter. The
5 licensed machine owner shall remit the total amount due the state under this subsection within 25 days
6 after the end of each quarter.

7 (6) (a) Except as provided in subsection (7), the department shall, in accordance with the
8 provisions of 15-1-501, forward ~~one-third~~ 33.35% of the tax collected under subsection (5) to the general
9 fund and 0.15% to the state special revenue account provided for in [section 1].

10 (b) The department shall, in accordance with the provisions of 15-1-501, forward ~~the remaining~~
11 ~~two-thirds~~ 66.5% of the tax collected under subsection (5) to the treasurer of the county or the clerk,
12 finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the
13 county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video
14 gambling machines located in incorporated cities and towns. The ~~two-thirds~~ local government portion of
15 tax collected under subsection (5) is statutorily appropriated, as provided in 17-7-502, to the department
16 for deposit to the county or municipal treasury.

17 (7) Receipts from the state's share of taxes collected under this section are pledged and dedicated
18 to guarantee repayment of loans participated in under 23-5-638 in an amount sufficient to meet the
19 prepayment obligation for the fiscal year during which the loans are made. The amount of taxes pledged
20 by this subsection is the dollar amount of loan participation under 23-5-638 and must be allocated to a
21 separate account in the short-term investment pool. The board of investments is not entitled to use the
22 proceeds from taxes collected under this section to repay a loan made under 23-5-638 unless the board
23 certifies that all other commercially available means of collection on the loan have been exhausted.
24 (Terminates December 31, 2005--sec. 10, Ch. 424, L. 1999.)

25 **23-5-610. (Effective January 1, 2006) Video gambling machine gross income tax -- records --**
26 **distribution -- quarterly statement and payment.** (1) A licensed machine owner shall pay to the department
27 a video gambling machine tax of 15% of the gross income from each video gambling machine issued a
28 permit under this part. A licensed machine owner may deduct from the gross income amounts equal to
29 amounts stolen from machines if the amounts stolen are not repaid by insurance or under a court order,
30 if a law enforcement agency investigated the theft, and if the theft is the result of either unauthorized

1 entry and physical removal of the money from the machines or of machine tampering and the amounts
2 stolen are documented.

3 (2) (a) A licensed machine owner is entitled to a tax credit for each video gambling machine for
4 which a permit has been issued under this part if:

5 (i) the permit was active for the video gambling machine on December 31, 2000;

6 (ii) the department determines that the video gambling machine is incapable, in the form in which
7 it was approved by the department, of communicating with the automated accounting and reporting
8 system authorized by 23-5-637; and

9 (iii) the licensed machine owner participates in the automated accounting and reporting system and
10 incurs actual hardware or software costs prior to December 31, 2003, for conversion of the video
11 gambling machine to make it compatible with the automated system.

12 (b) The amount of the tax credit allowed under subsection (2)(a) is \$250 for each video gambling
13 machine or the actual hardware and software cost necessary for conversion of the video gambling machine
14 to the automated accounting and reporting system, whichever is less.

15 (3) If a tax credit is claimed under subsection (2)(a), the credit is deducted from the tax due for
16 the quarter or quarters that begin after the video gambling machine for which the tax credit is claimed is
17 connected to the automated accounting and reporting system authorized by 23-5-637.

18 (4) A licensed machine owner shall keep a record of the gross income from each video gambling
19 machine issued a permit under this part in the form the department requires. The records must at all times
20 during the business hours of the licensee be subject to inspection by the department.

21 (5) (a) For each video gambling machine issued a permit under this part but not connected to the
22 department's automated accounting and reporting system, a licensed machine owner shall, within 15 days
23 after the end of each quarter and in the manner prescribed by the department, complete and deliver to the
24 department a statement showing the total gross income, together with the total amount due the state as
25 video gambling machine gross income tax for the preceding quarter. The statement must contain other
26 relevant information that the department requires.

27 (b) For each video gambling machine issued a permit under this part that is connected to the
28 department's automated accounting and reporting system, the department shall, within 5 working days
29 after the end of each quarter, complete and deliver to the licensed machine owner (with a copy sent to
30 the licensed operator, if different from the licensed machine owner, on whose premises the machine is

placed) a statement showing the total gross income from the video gambling machine, together with the total amount due the state as video gambling machine gross income tax for the preceding quarter. The licensed machine owner shall remit the total amount due the state under this subsection within 25 days after the end of each quarter.

(6) (a) The department shall, in accordance with the provisions of 15-1-501, forward ~~one-third~~ 33.35% of the tax collected under subsection (5) to the general fund and 0.15% to the state special revenue account provided for in [section 1].

(b) The department shall, in accordance with the provisions of 15-1-501, forward ~~the remaining two-thirds~~ 66.5% of the tax collected under subsection (5) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed machine is located, for deposit to the county or municipal treasury. Counties are not entitled to proceeds from taxes on income from video gambling machines located in incorporated cities and towns. The ~~two-thirds~~ local government portion of tax collected under subsection (5) is statutorily appropriated, as provided in 17-7-502, to the department for deposit to the county or municipal treasury."

Section 7. Section 23-7-402, MCA, is amended to read:

"23-7-402. Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. ~~Net~~ Of the net revenue, 99.675% must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund and 0.325% must be transferred to the state special revenue account provided for in [section 1].

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning."

NEW SECTION. **Section 8. Codification instruction.** [Section 1] is intended to be codified as an

1 integral part of Title 23, chapter 5, part 1, and the provisions of Title 23, chapter 5, part 1, apply to
2 [section 1].

3

4 NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2001.

5 - END -